

**REPORT ON EXAMINATION**

**OF**

**NEW YORK LIFE INSURANCE &  
ANNUITY CORPORATION**

**AS OF**

**DECEMBER 31, 2004**

I, Matthew Denn, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of DECEMBER 31, 2004 of the

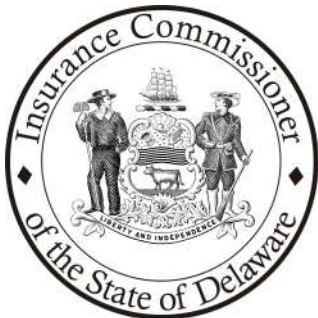
**NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION**

is a true and correct copy of the document filed with this Department.

ATTEST BY:

*Antoinette Hardy*

DATE: 26 JUNE 2006



In Witness Whereof, I HAVE HEREUNTO SET MY HAND AND AFFIXED THE OFFICIAL SEAL OF THIS DEPARTMENT AT THE CITY OF DOVER, THIS 26TH DAY OF 2006.

*Matthew Denn*

Insurance Commissioner

**REPORT ON EXAMINATION**  
OF THE  
**NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION**  
AS OF  
**December 31, 2004**

The above captioned Report was completed by examiners of the Delaware Insurance Department.

Consideration has duly been given to the comments, conclusions, and recommendations of the examiners regarding the status of the Company as reflected in the Report.

This Report is hereby accepted, adopted, and filed as an official record of this Department.

A handwritten signature in black ink, appearing to read "Matt Denn", written over a horizontal line.

MATTHEW DENN  
INSURANCE COMMISSIONER

DATED this 26TH Day of JUNE 2006.

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## **SALUTATION**

April 15, 2006

Honorable Alfred W. Gross  
Chairman, Financial Condition (E)  
Committee, NAIC  
State Corporation Commission  
Bureau of Insurance  
Commonwealth of Virginia  
1300 East Main Street  
Richmond, VA 23219

Honorable Julie Bowler  
Secretary Northeastern Zone  
Division of Insurance, State of Massachusetts  
One South Station  
Boston, MA 02110

Honorable Gary Smith  
Secretary Western Zone  
Department of Insurance  
State of Idaho  
700 West State Street  
Boise, ID 83720-0043

Honorable Ann Womer Benjamin  
Secretary Midwestern Zone  
Department of Insurance  
State of Ohio  
2100 Stella Court  
Columbus, OH 43215

Honorable Eleanor Kitzman  
Secretary Southeastern Zone  
Department of Insurance  
State of South Carolina  
300 Arbor Lake Drive, Suite 1200  
Columbia, SC 29223

Honorable Matthew P. Denn  
Insurance Commissioner  
State of Delaware  
841 Silver Lake Boulevard, Suite 100  
Dover, Delaware 19904

Commissioners:

In compliance with instructions and pursuant to statutory provisions contained in Certificate of Authority Number 05-016, dated June 14, 2005, an examination has been made of the affairs, financial condition and management of the

### **NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION**

hereinafter referred to as "Company" or "NYLIAC", incorporated under the laws of the State of Delaware. The examination was conducted at the principal offices of the Company, located at 51 Madison Avenue, New York, New York 10010.

The report of examination thereon is respectfully submitted.

## **SCOPE OF EXAMINATION**

The last financial examination was conducted by the Delaware Insurance Department as of December 31, 2001. This examination covered the three year period January 1, 2002 through December 31, 2004, and consisted of a general survey of the Company's business policies and practices; management, any corporate matters incident thereto; a verification and evaluation of assets and a determination of liabilities. Transactions and events occurring subsequent to the latter date were reviewed and have been commented upon to the extent deemed necessary.

The format of this report is designed to explain the procedures employed on the examination and the text will explain changes wherever made. If necessary, comments and recommendations have been made in those areas in need of correction or improvement. In such cases, these matters were thoroughly discussed with responsible personnel and/or officials during the course of the examination.

The examination followed rules established by the National Association of Insurance Commissioners (NAIC) Committee on Financial Condition Examiners Handbook, as adopted by the Delaware Insurance Department under Delaware Insurance Code Section 526, and generally accepted statutory insurance examination standards.

In addition to noted items in this report, the following topics were reviewed and are included in the workpapers of this examination. No exceptions or errors were noted during our review of these items:

- Fidelity Bond and Other Corporate Insurance
- NAIC Financial Ratios
- Legal Actions
- Employee and Agents Welfare
- Subsequent Events
- All Asset and Liability items not mentioned in this report

The examination was conducted by the Delaware Department of Insurance in accordance with the Association Plan of Examination Guidelines established by the NAIC. No states participated in the examination.

Workpapers prepared by the Company's external accounting firm, PricewaterhouseCoopers, (PwC) New York, New York, in connection with the annual audit, were reviewed and relied upon to the extent possible.

INS Services, Inc. (Services) was retained by the Delaware Insurance Department to conduct a review of the Company's overall control risk related to information system controls.

### **HISTORY**

The Company was incorporated on November 3, 1980, under the laws of the State of Delaware. A Certificate of Authority, issued by the Insurance Commissioner on December 26, 1980, and amended on September 12, 1983, authorized the Company to transact the business of life, including annuities, variable annuities, credit life, health, credit health and variable life.

### **CAPITALIZATION**

The Certificate of Incorporation initially authorized the issuance of 2,000 shares of common stock having a par value of \$1,000 per share. An amendment to the Articles of Incorporation with an effective date of September 20, 1984, increased the total number of common shares authorized to 20,000 with a par value of \$1,000 per share. An amendment to the Certificate of Incorporation dated August 11, 1989, increased the par value of the Company's 20,000 authorized shares to \$10,000 per share. Of the 20,000 common shares authorized, 2,500 are issued and outstanding as reported by the Company. New York Life Insurance Company (NYL) owns all outstanding shares. The Company received capital contributions of \$500 million

in December of 2003 and \$130 million in December of 2002 from NYL, which are reflected in the schedule below.

The following changes occurred in the capital and surplus accounts since the prior examination:

	<u>Common Capital Stock</u>	<u>Gross Paid-in and Contributed Surplus Funds</u>	<u>Unassigned Surplus</u>	<u>Total</u>
12/31/01	\$ 25,000,000	\$ 780,000,000	\$ 529,986,598	\$ 1,334,986,598
2002 Operations			(61,703,895)	(61,703,895)
2003 Operations			(20,922,033)	(20,922,033)
2004 Operations			126,484,731	126,484,731
Surplus Adjustments:				
December 13, 2002		130,000,000		130,000,000
December 16, 2003		500,000,000		500,000,000
12/31/04	<u>\$ 25,000,000</u>	<u>\$ 1,410,000,000</u>	<u>\$ 573,845,401</u>	<u>\$ 2,008,845,401</u>

Operations is defined as: Net income, net realized and unrealized capital gains or losses, change in non-admitted assets, change in asset valuation reserve, surplus withdrawn from Separate Accounts, other changes in Separate Accounts and aggregate write-ins for gains and losses in surplus.

### **DIVIDENDS TO STOCKHOLDERS**

According to Company records for the years indicated, and as reflected in minutes to the Board of Directors' meetings, no cash dividends to stockholders were declared or paid during the examination period.



## **INSURANCE HOLDING COMPANY SYSTEM**

The Company is a member of an insurance holding company system as defined under Title 18, Chapter 50 “Insurance Holding Companies” of the Delaware Insurance Code. The Company operates under the immediate and ultimate controlling Parent NYL, which is domiciled in the State of New York. NYL, a Fortune 100 company founded in 1845, is the largest mutual life insurance company in the United States and one of the largest life insurers in the world.

Pursuant to Section 5004 of the Delaware Insurance Code and Regulation 13, in seeking authorization to enter into certain transactions, the Company submitted Form D holding company registration statements that were approved by the Delaware Insurance Department. In addition, NYLIAC is exempt from filing annual holding company registration statements on the premise that its Parent has filed substantially similar documents in its domiciliary state for its subsidiaries. Information Reports are filed by NYL with the New York State Insurance Department in satisfaction of that jurisdiction’s holding company requirements and NYLIAC also submitted the Reports to the Delaware Insurance Department.

The following organizational chart of the Holding Company System as of December 31, 2004 reflects ownership that is 100% unless otherwise indicated with subsidiaries of subsidiaries indented accordingly:

NYLIFE LLC (Delaware)

Avanti Corporate Health Systems, Inc. (Delaware)

Avanti of the District, Inc. (Maryland)

Eagle Strategies Corp. (Arizona)

Express Scripts, Inc. (Delaware) (15.47%) <sup>i</sup>

New York Life Capital Corporation (Delaware)

New York Life International Investment Asia Ltd (Mauritius)

New York Life International Investment Inc. (Delaware)

Monetary Research Limited (Bermuda)

NYL Management Limited (United Kingdom)

New York Life Trust Company (New York)

New York Life Trust Company, FSB (Federal Savings Bank)  
NYLCare NC Holdings, Inc. (Delaware)  
NYL Executive Benefits LLC (Delaware)  
NYLIFE Securities Inc. (New York)  
NYLINK Insurance Agency Incorporated (Delaware)  
    NYLINK Insurance Agency of Alabama, Incorporated (Alabama)  
    NYLINK Insurance Agency of Hawaii, Incorporated (Hawaii)  
    NYLINK Insurance Agency of Massachusetts, Incorporated (Massachusetts)  
    NYLINK Insurance Agency of Montana, Incorporated (Montana)  
    NYLINK Insurance Agency of Nevada, Incorporated (Nevada)  
    NYLINK Insurance Agency of New Mexico, Incorporated (New Mexico)  
    NYLINK Insurance Agency of Washington, Incorporated (Washington)  
    NYLINK Insurance Agency of Wyoming, Incorporated (Wyoming)  
NYLUK I Company (United Kingdom)  
    NYLUK II Company (United Kingdom)  
        Gresham Mortgage (United Kingdom)  
        W Construction Company (United Kingdom)  
        WUT (United Kingdom)  
        WIM (AIM) (United Kingdom)  
WellPath of Arizona Reinsurance Company (Arizona)  
New York Life International, Inc. (Delaware)  
    New York Life Insurance Taiwan Corporation (Taiwan)  
    NYLI Holdings (Argentina) S.R.L. (Argentina)<sup>i</sup>  
        HSBC New York Life Seguros de Retiro (Argentina) S.A. (Argentina) (40%)<sup>ii</sup>  
New York Life International, Inc. (Delaware) (Cont'd)  
    HSBC New York Life Seguros de Vida (Argentina) S.A. (Argentina) (40%)<sup>iii</sup>  
    Maxima S.A. AFJP (Argentina) (40%)<sup>iii</sup>  
New York Life International, LLC (Delaware)  
    New York Life Insurance Limited (South Korea)  
    New York Life Insurance Worldwide Limited (Bermuda)  
    New York Life International Holdings Limited (Mauritius) (75%)<sup>ii</sup>  
        Max New York Life Insurance Company Limited (India) (26%)<sup>ii&iii</sup>  
    New York Life International India Fund (Mauritius) LLC (Mauritius) (90%)  
    New York Life Insurance (Philippines), Inc. (Philippines) (75%)  
    New York Life Worldwide Capital, Inc. (Delaware)  
        Fianzas Monterrey, S.A. (Mexico) (99.95%)  
        Operada FMA, S.A. de C.V. (Mexico) (99%)  
    NYL International Reinsurance Company Ltd (Bermuda)  
    NYLIFE Thailand, Inc. (Delaware)<sup>ii</sup>  
        Siam Commercial New York Life Insurance Public Company Limited (Thailand)  
        (69.02%)<sup>vii</sup>  
    NYLI-VB Asset Management Co. (Mauritius) LLC (Mauritius) (90%)  
    New York Life Securities Investment Consulting Co., Ltd. (Taiwan)  
    Seguros Monterrey New York Life, S.A. de C.V. (Mexico) (99.995%)  
        Centro de Capacitacion Monterrey, A.C. (Mexico) (99.791%)

New York Life Investment Management Holdings LLC (Delaware)  
MacKay Shields LLC (Delaware)  
MacKay Shields General Partner (L/S) LLC (Delaware) <sup>ii</sup>  
Madison Capital Funding LLC (Delaware)  
McMorgan & Company LLC (Delaware)  
NYLCAP Manager LLC (Delaware)  
New York Life Capital Partners, L.L.C. (Delaware) <sup>viii</sup>  
New York Life Capital Partners II, L.L.C. (Delaware) <sup>viii</sup>  
NYLIM Mezzanine GenPar GP, LLC (Delaware) <sup>viii</sup>  
NYLIM Service Company LLC (Delaware)  
New York Life Investment Management LLC (Delaware)  
New York Life Investment Management (U.K.) Limited (United Kingdom)  
NYLIM Q.E.D. GP, LLC (Delaware) <sup>viii</sup>  
NYLIFE Distributors LLC (Delaware)  
NYLIM Real Estate Inc. (Delaware)  
**New York Life Insurance and Annuity Corporation (Delaware)**  
NYLIFE Insurance Company of Arizona (Arizona)  
Eclipse Funds (Massachusetts)  
Eclipse Funds Inc. (Maryland)  
MainStay VP Series Fund, Inc. (Maryland)  
McMorgan Funds (Delaware)  
The MainStay Funds (Massachusetts)  
New York Life Irrevocable Trust of 1996 (NY)  
New York Life Settlement Corporation (Delaware)  
NYLINK Insurance Agency of Idaho, Incorporated (Idaho)  
NYLINK Insurance Agency of Ohio, Incorporated (Ohio)  
NYLINK Insurance Agency of Oklahoma, Incorporated (Oklahoma)  
NYLINK Insurance Agency of Texas, Incorporated (Texas)  
Biris Holdings LLC (Delaware)  
Haier New York Life Insurance Company Limited (People's Republic of China) (50%) <sup>vi</sup>  
Monitor Capital Advisors Funds, L.L.C. (Delaware)  
New York Life BioVenture Partners LLC (Delaware)  
Silver Spring, LLC (Delaware) <sup>viii</sup>

- i. New York Life ("NYL") owns an interest of approximately 9.67%; NYLIFE LLC owns an interest of approximately 5.80%. NYL takes the position that neither NYL nor any of its affiliates controls this entity. It is included for informational purposes only.
- ii. Record ownership is held by New York Life International, Inc. ("NYLI INC") and will be transferred to New York Life International, LC ("NYLI LLC") on or before December 31, 2005. Beneficial ownership is held by NYLI LLC.
- iii. Includes shares held of record by NYLI INC, such shares to be transferred to NYLI LLC on or before December 31, 2005. Beneficial ownership of such shares is held by NYLI LLC. NYL takes the position that neither NYL nor any of its affiliates controls this entity. It is included for informational purposes only.

- iv. Seguros Monterrey New York Life, S.A. de C.V. owns a 25% interest in this entity.
- v. A 74% interest is owned by Max India Limited, an unrelated outside party.
- vi. NYL takes the position that neither NYL nor any of its affiliates controls this entity. It is included for informational purposes only.
- vii. A 45.29% interest in Siam Commercial New York Life Insurance Public Company Limited (Thailand) (“SCNYL”) is held by NYLIFE Thailand, Inc. through a controlled Thai nominee holding company. A 23.73% interest in SCNYL is held by NYLI LLC. A total of 30.98% is owned by Siam Commercial Bank and other unrelated outside parties.
- viii. This chart does not show interests held in limited partnerships.

## **MANAGEMENT AND CONTROL**

### **Control**

NYLIAC is a wholly owned subsidiary of New York Life Insurance Company, a New York mutual life insurance company and the sole shareholder. The immediate and ultimate parent of the entire corporate organization is NYL. As of December 31, 2004, NYL reported the following:

Assets	\$ 101,303,785,470
Total Unassigned Surplus	8,592,385,168
Net Income	984,212,920

### **Management**

Pursuant to the General Corporation Laws of the State of Delaware, as implemented by the Company’s Certificate of Incorporation and Bylaws, all corporate powers are exercised by or under the direction of the Board of Directors. The Company’s business, property and affairs are also managed by or under the direction of the Board.

An annual meeting of the Board of Directors shall be held immediately following adjournment of the annual meeting of stockholders at the place of such annual meeting. The Board from time to time may provide for the holding of other regular meetings and in addition,

action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if all members of the Board consent thereto in writing, and such writing or writings are filed with the minutes of proceedings of the Board.

As of December 31, 2004 all of the directors' principle business affiliations were with New York Life Insurance Company with their respective positions shown as follows:

<u>Director</u>	<u>Date Elected</u>	<u>Affiliation</u>
Frank M. Boccio East Rockaway, NY	December, 1998	Senior Vice President and Chief Administrative Officer
Michael G. Gallo Darien, CT.	May, 1998	Senior Vice President and Chief of Staff
Solomon Goldfinger Flushing, NY	May, 1998	Senior Vice President and Chief Financial Officer
Phillip J. Hildebrand Purchase, NY	January, 1997	Executive Vice President
Theodore A. Mathas Armonk, NY	August, 2001	Executive Vice President
John R. Meyer Staten Island, NY	October, 2003	Senior Vice President
Paul B. Morris New York, NY	April, 2004	Senior Vice President
Anne F. Pollack New York, NY	December, 2001	Senior Vice President and Chief Investment Officer
Robert D. Rock New York, NY	January, 1991	Senior Vice President
Frederick J. Sievert Stamford, CT	October, 2002	President
Michael E. Sproule New York, NY	June, 2002	Executive Vice President and Chief Financial Officer

Seymour Sternberg  
Purchase, NY

April, 1997

Chairman of the Board and  
Chief Executive Officer

### Committees of the Board of Directors

The Board of Directors appointed members to the following four (4) committees that were in place as of December 31, 2004:

<u>Executive Committee</u>	<u>Product Committee</u>	<u>Rate Committee</u>	<u>Investment Committee</u>
Phillip J. Hildebrand Theodore A. Mathas Frederick J. Sievert Seymour Sternberg	Frank Boccio Michael Gallo Solomon Goldfinger Phillip J. Hildebrand Theodore A. Mathas John Meyer	Melvin J. Feinberg Solomon Goldfinger Gary W. Scofield Joel Steinberg	Robert D. Rock Solomon Goldfinger Anne F. Pollack

### Officers

The Bylaws of the Company provide that the Officers of the Company shall consist of a President, a Secretary and Treasurer and there may also be one or more Vice-Presidents and such other officers with titles as shall from time to time be set by resolution of the Board of Directors. As of December 31, 2004, the Company's elected principal officers and their respective titles were as follows:

<u>Name</u>	<u>Title</u>
Frederick James Sievert	President
Phillip John Hildebrand	Executive Vice-President
Theodore Alexander Mathas	Executive Vice-President
Gary Edward Wendlandt	Executive Vice-President
Jay Steele Calhoun, III	Senior Vice-President and Treasurer
Judith Ellen Campbell	Senior Vice-President and Chief Information Officer
John Andrew Cullen	Senior Vice-President
Sheila Kearney Davidson	Senior Vice-President and General Counsel
Solomon Goldfinger	Senior Vice-President and Chief Financial Officer
Barbara Joan McInerney	Senior Vice-President of Corporate Compliance
Robert Donald Rock	Senior Vice-President and Chief Investment Officer
Joel Martin Steinberg	Senior Vice-President and Chief Actuary

Carmela Anna Condon  
Catherine Anne Marrion

Vice President and Controller  
Secretary

## **CORPORATE RECORDS**

### **Corporate Minutes and Meetings**

The Board of Directors assesses and approves pertinent transactions as reflected in the corporate minutes and in addition, the Company's business affairs are discussed at its Stockholder and Committee meetings.

As prescribed in the Bylaws, actions of the Board were taken at meetings or were conducted by unanimous written consent. During the three-year period of January 1, 2002 to December 31, 2004, actions of the Board of Directors were taken at six (6) meetings and on four (4) other dates that meetings were not held, the Board implemented actions by unanimous written consent.

### **Conflict of Interest Policy**

The Company adopted a Code of Ethics for standards of business conduct that includes its policy for conflicts of interest. Conflict of Interest Compliance Questionnaires are distributed to key personnel as well as to members of the Board of Directors.

## **MANAGEMENT AND SERVICE AGREEMENTS**

The Company was a party to management and service agreements as of the examination date. A brief summary of some of these agreements follows:

### **Tax Sharing Agreement – NYL**

The Company participates in a federal income tax allocation agreement dated August 6, 2001, which was filed with the Delaware Insurance Department along with other members of the

New York Life Group. NYL and affiliates constitutes an affiliated group within section 1504(a) of the Internal Revenue Code of 1986 of which NYL is the common parent and, therefore, are eligible to file a consolidated United States federal income tax return and pay federal income taxes on a consolidated basis, if necessary. Federal income tax expense and benefits are allocated in the ratio that the Company's separate tax return liability or benefit bears to the sum of the separate return tax liabilities and benefits of the New York Life Group. Estimated payments are made between members during the year.

Management Service Agreement – NYL

The Company has no employees and pursuant to a management service agreement with NYL, dated December 11, 1980, last amended January 18, 1985, the Company utilizes the services of NYL officers and employees to conduct all operations, except investment management. Under this administrative, underwriting and distribution agreement NYL rendered at cost; audit, accounting, actuarial, data processing, legal and related services. Fees charged are determined by applying the percentage of personnel salaries devoted to subsidiaries to the general expenses of NYL and, to any other expenses directly applicable to the Company. Under the terms of the agreement, total amounts incurred for 2002, 2003 and 2004, were \$544 million, \$586 million and \$616 million.

Investment Advisory Agreement - New York Life Investment Management LLC (NYLIM)

The Company has an Investment Advisory Agreement with NYLIM dated April 1, 2000 whereby NYLIM provides investment advisory services only. The fees are dependent on the types of investments made and investment transactions are to be in accordance with investment objectives of the Company and subject to restrictions established by the Company. Under the



terms of the agreement, total amounts incurred for 2002, 2003 and 2004, were \$28 million, \$22 million and \$31 million.

Investment Advisory Agreement – Mainstay VP Series Fund, Inc. (Mainstay) /NYLIM

NYLIM and NYLIAC have an agreement, dated December 15, 1996 and Substitution Agreement dated February 12, 2001, with Mainstay, a registered investment company whose shares are sold to various separate accounts of the Company. Under the terms of the agreement, total amounts incurred for 2002, 2003 and 2004, were \$9 million, \$9 million and \$11 million.

Joinder Agreement – New York Life Insurance Company

The Company has entered into a Joinder (Partnership) agreement, dated November 1, 2000 (Partnership agreement dated August 1, 2000) with NYL being the Manager for the Partners. The Partnership Agreement provides for the creation of a New York Life Short Term Fund, a New York general partnership. The purpose of the partnership is to pool, invest and reinvest the cash and liquid assets of the Partners to achieve liquidity, safety of principal and commensurate yield by investing solely in money market instruments and other short-term investments.

Distribution Agreement – NYLIFE Distribution Inc. (Distributors)

The Company has a variable product distribution agreement; dated August 1, 1996, with NYLIFE Distributors Inc. (Distributors) whereby Distributors agrees to distribute and sell policies in connection with the Company's corporate sponsored Variable Universal Life Separate Account.

Credit Agreement – New York Life Capital Corporation (NYLCC)

The Company has entered into a credit agreement, dated December 23, 2004, with NYLCC. NYLCC agrees to lend in the aggregate, principal to the Company up to but not to

exceed \$490 million, the Commitment Amount. In December of 2004 the Company borrowed \$233 million against the commitment amount. The loan was evidenced by a single promissory note of the Borrower NYLIAC.

### **TERRITORY AND PLAN OF OPERATION**

The Company possesses an agency force of approximately 7,500 and is licensed to transact the business of life insurance in all fifty states, the District of Columbia and Taiwan.

The Company's principal lines of business are individual life and individual annuity products marketed to middle and upper income level individuals, small to medium size businesses and their owners and professionals. The Company's sales are predominantly flexible premium annuities, fixed and variable deferred annuities, universal and variable universal life insurance, individual annuity, Corporate Owned Life Insurance (COLI) and Bank-Owned Life Insurance (BOLI). The COLI/BOLI business, written as individual life coverage's, generates over sixty percent of direct life premium volume and over eighty percent of life insurance reserves for the Company. COLI/BOLI sales are mostly through brokers. Individual life and annuities comprise one-third and two-thirds of the Company's direct premiums and deposits, respectively. Distribution direct premiums were split 31% for life insurance and 69% annuities.

The Company offers a wide variety of interest sensitive insurance and annuity products in the insurance market. In addition the Company markets COLI to targeted corporate customers, and BOLI to primarily banks, through independent brokers and brokerage general agents. Sales of this product generated approximately \$362,964,657 million of gross life premium in 2003 and approximately \$867,804,184 million in 2004, which represented approximately 55% of total

gross life premium in 2003 and 65% in 2004. In addition annuity sales are being marketed through bank and stock market channels.

Since its prior examination the Company has continued to concentrate on marketing COLI, which is typically a fixed universal life product, offered in the non-qualified corporate sponsored life insurance market to insure employees of a common employer. The policy is designed for a corporation, or a trust established by a corporation, for the purpose of providing a means of funding the cost of benefit plan liabilities. BOLI policies are most often sold through specialty brokers.

The Company has issued various COLI policies to its parent including \$527 million sold during 2004. Policyholder reserves for these policies amounted to approximately \$1,798 million in 2004, \$1,134 million in 2003 and \$1,023 million in 2002. These policies were issued on the same basis as policies sold to unrelated customers.

The Company is the obligor for certain structured settlement agreements with unaffiliated insurance companies, beneficiaries and other non-affiliated entities. To satisfy its obligations under these agreements, the Company owns all rights to title and interest in certain structured settlement annuity contracts issued by NYL. The obligations are based upon the actuarially determined present value of expected future payments. The Company's carrying value of the annuity contracts and the corresponding obligations amounted to \$4,193 million in 2004, \$3,688 million in 2003 and \$3,021 million in 2002.

In addition the Company has sold certain annuity contracts to NYL in order that NYL may satisfy its third party obligations under certain structured settlement agreements. The Company has been directed by NYL to make payments under the annuity contracts directly to the beneficiaries under these structured settlement agreements. The policyholder reserves related to

these contracts amounted to \$151 million in 2004, \$148 million in 2003 and \$149 million in 2002.

The Company introduced the following new policies during the examination period:

2002:

- Variable Universal Life (Magnaster Private Placement) – A flexible premium survivorship variable life insurance product sold in private placement offerings
- Flexible Premium Survivorship Variable Universal Life Insurance Policy – variable universal life policy that covers two insured's
- Single Premium Variable Universal Life (series 2) – modified single premium variable universal life policy with a guarantee death benefit
- Variable Universal Life – variable universal life policy, with flexible premium
- LifeStages Select Variable Annuity – A flexible premium variable annuity with a 3-year surrender charge; interest rate on fixed account guaranteed for one year
- MainStay Select Variable Annuity – A flexible premium variable annuity with a 3-year surrender charge; interest rate on fixed account guaranteed for one year distributed by banks and stockbrokers
- LifeStages Essential Variable Annuity – A flexible premium variable annuity with a 7-year surrender charge; offers a choice of 1-year or 3-year initial interest guarantee on the fixed account
- MainStay Plus II Variable Annuity – A flexible premium variable annuity with a 7-year surrender charge; offers a choice of 1-year or 3-year initial interest guarantee on the fixed account distributed by banks and stockbrokers
- LifeStages Choice Fixed Annuity – A single premium fixed annuity with a 6-year surrender charge period; offers a choice of 1-year, 2-year or 3-year initial interest rate guarantee
- MainStay Choice Fixed Annuity – Same as LifeStages Choice Fixed Annuity, distributed by banks and stockbrokers

2003:

- Modified Single Premium Universal Life – bank owned universal life policy, for funding the cost of benefit plan liabilities on a single premium pay basis
- Variable Universal Life Provider – variable universal life policy
- Variable Universal Life Provider with Alternative Cash Surrender Value Benefit – variable universal life policy with alternative cash surrender value benefit
- Single Premium Variable Universal Life (series 3) – modified single premium variable universal life policy with a guarantee death benefit
- Survivorship Universal Life (Magnaster Private Placement) – A flexible premium survivorship Variable life insurance product sold in private placement offerings
- LifeStages Elite Variable Annuity – A flexible premium variable annuity with an 8-year surrender charge; interest rate on fixed account is guaranteed for one year
- LifeStages Premium Plus 2 Variable Annuity – A flexible premium variable annuity with an 8-year surrender charge; an extra amount calculated as percentage of each premium payment is added to the policy upfront, interest rate on fixed account is guaranteed for one

year

- MainStay Premium Plus 2 Variable Annuity – Same as LifeStages Premium Plus 2 Variable Annuity, distributed by banks and stockbrokers
- LifeStages Lifetime income Annuity – A single premium immediate annuity product that offers regular income alternatives such as life only, 5-10-15-20 year certain and life payout, life with cash refund and joint benefits
- MainStay Lifetime income Annuity – Same as LifeStages Lifetime income Annuity, distributed by banks and stockbrokers

2004:

- Universal Life Insurance (Accumulator and Protector) – flexible universal life insurance policy – Accumulator plan focuses on accumulating cash value; Protector Plan focuses on primarily maintaining lower cost of insurance
- Corporate Sponsored Private Placement Variable Universal Life (CorpExec PPVUL) – Corporate owned/sponsored private placement contract, offering flexible premiums, three death benefit options and the choice of Guideline Premium Test or Cash Value Accumulation Test
- MainStay Elite Variable Annuity – Same as LifeStages Elite Variable Annuity, distributed by banks and stockbrokers
- LifeStages Premium Plus Elite Variable Annuity – A flexible premium variable annuity with a 10-year surrender charge; an extra amount calculated as percentage of each premium payment is added to the policy upfront, interest rate on fixed account is guaranteed for one year
- LifeStages Premium Plus Fixed Annuity – A single premium fixed annuity with an 8-year surrender charge; interest rate on fixed account is guaranteed for one year
- MainStay Premium Plus Fixed Annuity – Same as LifeStages Premium Plus Fixed Annuity, distributed by banks and stockbrokers

As of December 31, 2004, the Company's written premium was distributed as follows:

	<b><u>Ordinary</u></b> <b><u>Life Insurance</u></b>	<b><u>Group Life</u></b>	<b><u>Individual</u></b> <b><u>Annuities</u></b>	<b><u>Total</u></b>
Direct	\$2,334,072,150	\$24,495,105	\$5,153,408,399	\$7,511,975,654
Reinsurance Assumed	545,777	0	0	545,777
Reinsurance Ceded	117,489,441	4,253,204	0	121,742,645
<b>Totals</b>	<b><u>\$2,217,128,486</u></b>	<b><u>\$20,241,901</u></b>	<b><u>\$5,153,408,399</u></b>	<b><u>\$7,390,778,786</u></b>

## **REINSURANCE**

The Company enters into reinsurance agreements in the normal course of business to reduce overall risk and evaluates the financial condition of its reinsurers to minimize its exposure to significant losses from reinsurer insolvencies. The following significant reinsurance agreements were in place as of the examination date.

### **Assumed**

The only active assumed reinsurance agreement is with New York Life Agents Reinsurance Company (NYLARC), which was effective January 1, 2000. NYLARC is a life insurance company wholly owned by NYLARC Holding Company, Inc., whose shareholders consist of New York Life agents who meet certain criteria. NYLARC reinsures a portion of certain life insurance products sold by its shareholders. The agreement is written on a yearly renewable term basis for various life products in excess of \$250,000.

### **Ceded**

The Company cedes risks on an automatic basis to its parent, on policies in excess of its maximum retention of \$ 5,000,000 per insured life for issues ages 0 to 75 and \$3,000,000 for issues ages 76 and over.

### **Coinsurance and Modified Coinsurance Quota Share**

Effective July 1, 2002, the Company entered into a modified coinsurance agreement with M-Life Insurance Company (M-Life), involving policies issued by the Company and referred to internally as the “Magnastar” Policy Series. M-Life reinsures a 50 % quota share of the risk on each policy on a modified coinsurance basis, provided that third party reinsurance is available for amounts in excess of its retention limits.

Effective July 1, 2002, two separate agreements were executed on an YRT basis between the Company, M-Life, and two separate reinsurers providing coverage for 100 % of the excess above M-Life's retention limits. In addition, these two reinsurers were responsible for a 90 % quota share of the first dollar coverage on the reinsured policies.

Coinsurance and Modified Coinsurance Quota Share

Effective December 31, 2004 the Company entered into a coinsurance/modified coinsurance agreement with New York Life whereby the Company ceded 90 % of the retained portion of a block of in-force life insurance business. The policies reinsured were primarily Universal Life (UL), Variable Universal Life (VUL), Target Life (TL) and Asset Preserver (AP). A total reserve of \$5.6 billion (\$4.6 billion of reserves in the General Account and \$1 billion in the Separate Accounts) was ceded using a combination of coinsurance with funds withheld for the fixed policies maintained in the general account and modified coinsurance for the VUL policies in the separate accounts. Under both the MODCO and funds withheld treaties, the Company retains the assets held in relation to the reserves.

The Company received a \$25 million ceding commission at the inception of the treaty, and an experience refund will be paid to the Company at the end of each accounting period for 100 % of the profits in excess of \$5 million.

Reserve credits taken on business ceded under this treaty of approximately \$4.6 billion represented over 95 % of total reserve credits reported by the Company in Schedule S, Part 3 of the 2004 Annual Statement.

This treaty was filed by the Company with the Delaware Department of Insurance as an exhibit to the Form D filed on December 1, 2004, pursuant to the Delaware Insurance Code.

### YRT Quota Share

In 2003 the Company entered into several automatic reinsurance agreements on a 66% - 90% YRT basis with various reinsurers covering various universal life (UL) and variable universal life insurance (VUL) and permanent life insurance plans. In addition, the Company executed an agreement on a 90% YRT basis covering COLI VUL policies effective October 1, 2003 with three reinsurers.

In 2004, the Company modified the pool of reinsurers on Survivor Universal Life and Survivorship Variable Universal Life products, which were reinsured on a 90% YRT basis with four reinsurers. The Company also obtained reinsurance on a 90% basis for COLI Private Placement Variable Universal Life policies with three reinsurers.

The Company also had numerous automatic reinsurance agreements in place during the examination period, written on a 66% to 90% YRT basis for different insurance products with multiple reinsurance carriers.

### **GROWTH OF THE COMPANY**

The following financial information was extracted from the Company's filed Annual Statements and covers the period from its last examination (2001) through the period under review:

<b><u>Year</u></b>	<b><u>Net Admitted Assets</u></b>	<b><u>Liabilities</u></b>	<b><u>Capital and Surplus</u></b>	<b><u>Premiums and Annuity Considerations</u></b>	<b><u>Net Income</u></b>
2001	\$34,673,992,945	\$33,339,006,347	\$1,334,986,598	\$5,194,651,531	\$(82,627,832)
2002	\$41,298,839,581	\$39,895,556,878	\$1,403,282,703	\$6,484,315,863	\$(94,550,622)
2003	\$48,065,555,241	\$46,183,194,571	\$1,882,360,670	\$5,896,730,100	\$19,590,670
2004	\$56,282,521,849	\$54,273,676,448	\$2,008,845,401	\$7,396,677,037	\$224,439,710



For the period under review:

Net Admitted Assets increased 62.39%

Liabilities increased 62.79%

Capital and Surplus increased 50.48%.

Net Premiums, Annuity Considerations and Deposits increased 42.39%.

The Company has earned high marks from all the major rating agencies:

- Best Ratings: A++ (Superior)
- Fitch Ratings: AAA
- Standard and Poor's (Credit rating): AA (Very Strong)

A stable outlook for continued positive ratings is indicated from all agencies.

### **ACCOUNTS AND RECORDS**

Pursuant to the Management Service Agreement between NYLIAC and NYL, financial accounting and reinsurance accounting records are processed and maintained in conjunction with NYL's computer systems. In general, it has been determined that the Company has a sufficient level of controls in place for all of the above areas. Personal computers and file servers support financial reporting and analysis. The Company performs full system backups and rotates copies of programs and data files to its off-site storage facility on a weekly basis. The Company has a disaster recovery plan that covers its mainframe operations that is periodically tested.

The internal control structure for NYLIAC/NYL's accounting systems were discussed with management and reviewed after completion of questionnaires developed by the NAIC and the Delaware Department of Insurance. The statutory-basis financial statements of the Company are audited annually by PwC, an independent certified accounting firm. The Company's accounts and records are also subject to review by the internal audit department of NYL.

Based on the examination review of Annual Statement classifications and subsequent discussions with management, the accounting system and procedures generally conformed to insurance accounting standard practices and requirements.

### **FINANCIAL STATEMENTS**

The financial position of the Company as of December 31, 2004, as determined by this examination is presented in the following exhibits:

Assets, Liabilities, Surplus and Other Funds as of December 31, 2004  
Summary of Operations as of December 31, 2004  
Capital and Surplus Account for the period of December 31, 2001 to  
December 31, 2004  
Examination Financial Changes - Comparison of amounts reported by Company  
and amounts determined by this examination

**Analysis of Assets**

	<u>Ledger Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>	<u>Notes</u>
Bonds	\$32,151,746,001		\$ 32,151,746,001	1
Stocks:				
Preferred stocks	36,826,937		36,826,937	
Common stocks	28,638,144		28,638,144	
Mortgage loans on real estate				
First liens	2,948,717,807		2,948,717,807	1
Other than first liens	78,727,372		78,727,372	1
Real estate				
Prop. held for the production of income	10,662,422		10,662,422	
Cash and short-term investments	905,344,743		905,344,743	
Contract loans	581,108,113	\$1,008,005	580,100,108	1
Other invested assets	640,489,219		640,489,219	
Receivables for securities	19,128,942		19,128,942	
Agg. write-ins for invested assets	9,214,888		9,214,888	
Subtotals, cash & invested assets	37,410,604,588	1,008,005	37,409,596,583	
Investment income due and accrued	378,211,950	250,585	377,961,365	
Uncollected premium & agents' balances in the course of collection	572,561	619	571,942	
Deferred premiums, agents' balances and installments booked but deferred and not yet due	649,798		649,798	
Reinsurance:				
Amts. recoverable from reinsurers	16,787,685		16,787,685	
Other amounts receivable under Reinsurance contracts	29,626,364		29,626,364	
Federal and foreign income tax recoverable and interest thereon	44,247,490		44,247,490	
Net deferred tax asset	400,208,220	340,728,208	59,480,012	
Guaranty funds receivable or on deposit	1,254,309		1,254,309	
Furniture & equipment	6,276,057	6,276,057		
Receivable from parent, subsidiary, & affiliates	10,218,929		10,218,929	
Other assets non-admitted	1,384,383	1,384,383		
*Aggregate write-ins for other than invested assets	4,874,380,752	28,550,603	4,845,830,149	
Total assets excluding Separate Accounts	43,174,423,086	378,198,460	42,796,224,626	
From Separate Accounts Statement	13,486,297,223		13,486,297,223	2
Totals	\$56,660,720,309	\$378,198,460	\$56,282,521,849	

	(1)	(2)	(3)
<u>Assets</u>	<u>Assets</u>	Non-admitted <u>Assets</u>	Net Admitted <u>Assets</u>
Interest on annuity contracts	\$4,192,812,580		\$4,192,812,580
Amount due undelivered securities	655,061,444	\$2,043,875	653,017,569
Miscellaneous	20,778,864	20,778,864	
Goodwill	<u>5,727,864</u>	<u>5,727,864</u>	
Totals*	<u>\$4,874,380,752</u>	<u>\$28,550,603</u>	<u>\$4,845,830,149</u>

### **Liabilities, Surplus and Other Funds**

		Note
Aggregate reserve for life policies and contracts	\$ 28,535,848,113	3
Liability for deposit-type contracts	194,018,441	
Contract claims: Life	59,983,876	4
Other amounts payable on reinsurance ceded	21,448,109	
Interest maintenance reserve	75,310,022	
Commissions to agents due and accrued – life and annuity	3,122,923	
General expenses due and accrued	3,495,489	
Transfers to Separate Accounts due and accrued	(316,216,085)	
Taxes, licenses and fees due and accrued	13,105,349	
Unearned investment income	10,109,808	
Amounts withheld or retained by company as agent or trustee	472,560	
Remittances and items not allocated	143,710,809	
Liability for benefits for employees and agents if not included	93,701,000	
Borrowed money and interest thereon	1,253,631,263	
Miscellaneous liabilities:		
Asset valuation reserve	381,574,694	
Reinsurance in unauthorized companies	497,654	
Payable to parent, subsidiaries and affiliates	202,740,162	
Funds held under coinsurance	4,534,704,496	
Payable for securities	320,503,542	
Aggregate write-ins for liabilities	<u>5,321,479,242</u>	
Total Liabilities excluding Separate Accounts	<u>40,853,241,467</u>	
From Separate Accounts Statement	13,420,434,981	
Total Liabilities	<u>54,273,676,448</u>	
Common capital stock	25,000,000	
Gross paid in and contributed surplus	1,410,000,000	
Unassigned funds	573,845,401	
Surplus	<u>1,983,845,401</u>	
Totals	<u>2,008,845,401</u>	
Total surplus and liabilities	\$ <u>56,282,521,849</u>	

**Summary of Operations**  
(Statement of Income)

Premiums and annuity considerations	\$ 7,390,778,786
Considerations for supplementary contracts with life contingencies	5,898,251
Net investment income	1,958,395,555
Amortization of interest maintenance reserve	23,629,452
Separate Accounts net gain from operations excluding unrealized gains or losses	5,845,700
Commissions and expense allowances on reinsurance ceded	9,381,037
Reserve adjustments on reinsurance ceded	3,388,773
Miscellaneous income	
Income from fees associated with investment management, administration and contract guarantees from Separate Accounts	153,808,788
Aggregate write-ins for miscellaneous income	105,500,425
Total	<u>9,656,626,767</u>
Death benefits	198,795,842
Matured endowments	56,298
Annuity benefits	494,890,422
Disability benefits and benefits under accident and health policies	2,550,831
Surrender benefits and other fund withdrawals	2,163,605,912
Interest and adjustments on policy or deposit type contract funds	9,665,435
Payments on supplementary contracts with life contingencies	5,429,327
Increase in aggregate reserves for life and accident and health policies and contracts	<u>(89,864,753)</u>
Totals	2,785,129,314
Commissions on premiums, annuity considerations, and deposit-type funds	396,734,606
General insurance expenses	557,105,827
Insurance taxes, licenses and fees, excluding federal income taxes	70,120,110
Increase in loading on and cost of collection in excess of loading on deferred and uncollected premiums	(4,615)
Net transfers to or (from) Separate Accounts	1,003,503,327
Aggregate write-ins for deductions	4,545,457,897
Totals	<u>9,358,046,466</u>
Net gain from operations before dividends to policyholders and federal income taxes	298,580,301
Dividends to policyholders	
Net gain from operations after dividends to policyholders and before federal taxes	298,580,301
Federal income taxes incurred	<u>70,786,151</u>
Net gain from operations after dividends to policyholders and federal taxes and before realized capital gains or (losses)	227,794,150
Net realized capital gains or (losses) less capital gains tax and transferred to IMR	<u>(3,354,440)</u>
Net income	<u>\$ 224,439,710</u>

### **Capital and Surplus Account**

Capital and surplus, December 31, 2001	\$ <u>1,882,360,670</u>
Net income	224,439,710
Change in net unrealized capital gains or (losses)	(10,085,082)
Change in net deferred income tax	(22,005,368)
Change in non-admitted assets and related items	27,946,680
Change in liability for reinsurance in unauthorized companies	(455,383)
Change in asset valuation reserve	(94,635,782)
Other changes in surplus in Separate Accounts Statement	6,283,420
Aggregate write-ins for gains and losses in surplus	<u>(5,003,464)</u>
Net change in capital and surplus for the year	<u>126,484,731</u>
Capital and surplus, December 31, 2004	\$ <u>2,008,845,401</u>

### **Examination Financial Changes**

No financial changes were made for examination report purposes.

### **NOTES TO FINANCIAL STATEMENTS**

Note 1	
<u>Bonds</u>	<u>\$32,151,746,001</u>
<u>Mortgage Loans on Real Estate</u>	<u>\$ 3,027,445,179</u>
<u>Contract Loans</u>	<u>\$ 580,100,108</u>

Bonds and mortgage loans comprised 94% of the invested assets at year-end 2004. Bonds were primarily corporate holdings, U.S. treasury and agency obligations, municipals, and public utilities of which 91% were class 1 or 2 grade. Mortgage loans are diversified geographically and by building type (commercial or residential). The asset contract loans, as reported by the Company, were accepted for the purpose of this examination. Program and system discrepancies associated with the captioned asset account are described as follows:

- a) The program used in calculating non-admitted assets for loans in excess of cash surrender values was inaccurate as loan balances were overstated compared to the actual system

loan values. The resulting overstatement of non-admitted loan values caused 2004 admitted contract loans to be understated and surplus to be overstated

- b) Interest income due and accrued for certain loans is being reported in the account, "Investment Income due and accrued" for policies with effective or anniversary dates prior to October 1st, however, interest that is past due 90 days or more should be included in the contract loan account per SAAP 49 of the NAIC Accounting Practices And Procedures Manual. This resulted in no impact on Company surplus.

**It is recommended that the Company review its programs and systems that are related to contract loan values that affect the accuracy of reporting amounts in certain Line accounts of the Annual Statement.**

Note 2

Separate Account Assets

\$13,486,297,223

NYLIAC has established separate accounts with varying investment objectives, which are segregated from the Company's general account and are maintained for the benefit of separate account contract holders. Separate account assets are stated at market value for registered separate accounts and at amortized cost for guaranteed separate accounts. The liability for separate accounts represents contract holders' interest in the separate account assets.

The Company maintains one guaranteed separate account for universal life insurance policies with assets of \$730 million. This account provides a minimum guaranteed interest rate with a market value adjustment imposed upon certain surrenders.

NYLIAC maintains eighteen non-guaranteed, registered separate accounts for its variable deferred annuity and variable life products with assets of \$12,756 million.

The company has seven major categories of separate accounts with each separate account offering between one to fifteen different policies as described below:

1. **NYLIAC Variable Annuity Separate Account I** funds Non-Qualified Flexible Premium Multi-Funded Variable Retirement Annuity Policies designed to establish retirement benefits to provide individuals with supplemental retirement income. This account was established on October 5, 1992 and sales of these policies were discontinued effective May 10, 2002.
2. **NYLIAC Variable Annuity Separate Account II** funds Qualified Flexible Premium Multi-Funded Variable Retirement Annuity Policies designed to establish retirement benefits for individuals who participate in qualified pension, profit sharing or annuity plans. This account was established on October 5, 1992 and sales of these policies were discontinued effective May 10, 2002.
3. **NYLIAC Variable Annuity Separate Account III** funds Non-Qualified Deferred and Tax-Qualified Deferred Flexible Premium Variable Retirement Annuity Policies. The Non-Qualified policies are designed to establish retirement benefits to provide individuals with supplemental retirement income. The qualified policies are designed to establish retirement benefits for individual who participate in qualified pension, profit sharing or annuity plans. This account was established on November 30, 1994. This Separate Account funds six Policy Series as follows:
  1. Series I Policies
    - a. LifeStages Variable Annuity
    - b. LifeStages Flexible Premium Variable Annuity
    - c. MainStay Plus Variable Annuity
  2. Series II Policies
    - a. LifeStages Access Variable Annuity (discontinued February 28, 2003 reintroduced on November 14, 2004)
    - b. MainStay Access Variable Annuity (discontinued October 14, 2002)
  3. Series III Policies
    - a. LifeStages Premium Plus Variable Annuity
    - b. MainStay Premium Plus Variable Annuity
    - c. AmSouth Premium Plus Variable Annuity
  4. Series IV Policies
    - a. LifeStages Essentials Variable Annuity
    - b. MainStay Plus II Variable Annuity
  5. Series V Policies
    - a. LifeStages Select Variable Annuity
    - b. MainStay Select Variable Annuity
  6. Series VI Policies
    - a. LifeStages Premium Plus II Variable Annuity
    - b. AmSouth Premium Plus II Variable Annuity
    - c. MainStay Premium Plus II Variable Annuity
4. **NYLIAC Variable Annuity Separate Account IV** is designed to receive and invest premium payments under Non-Qualified Deferred and Tax-Qualified Deferred Flexible



Premium Variable Retirement Annuity Policies. This account was established on June 10, 2003. The Non-Qualified policies are designed to establish retirement benefits to provide individuals with supplemental retirement income. The Tax-Qualified policies are designed to establish retirement benefits for individuals who participate in qualified pension, profit sharing or annuity plans. The three types of policies funded by this Separate Account are:

1. LifeStages Elite Variable Annuity
  2. MainStay Elite Variable Annuity
  3. LifeStages Premium Plus Elite Variable Annuity
5. **NYLIAC Variable Universal Life Separate Account I** is designed for individuals who see lifetime insurance protection and flexibility with respect to premium payments and death benefits. This account was established on June 4, 1993. This Separate Account funds four Policy Groups as follows:
1. Group 1 Policies
    - a. Variable Universal Life (VUL)
    - b. Survivorship Variable Universal Life-Series 1 (SVUL)
  2. Group 2 Policies
    - a. Variable Universal Life 2000 – Series 1 (VUL 2000)
    - b. Single Premium Variable Universal Life – Series 1 (SPVUL)
  3. Group 3 Policies
    - a. Pinnacle Variable Universal Life (Pinnacle VUL)
    - b. Pinnacle Survivorship Variable Universal Life (Pinnacle SVUL)
  4. Group 4 Policies
    - a. Variable Universal Life 2000 – Series 2 (VUL 2000)
    - b. Survivorship Variable Universal Life- Series 2 (SVUL)
    - c. Single Premium Variable Universal Life – Series 2 (SPVUL)
    - d. Single Premium Variable Universal Life – Series 3 (SPVUL)
    - e. Variable Universal Life Provider (VUL Provider)
6. **NYLIAC Corporate Sponsored Variable Universal Life** is designed for Group or Sponsored arrangements that seek lifetime insurance protection and flexibility with respect to premium payments and death benefits. This account was established on May 24, 1996, with investments commencing on March 27, 1998. The four types of policies funded by this Separate Account are:
1. Series 1 Policies – Corporate Sponsored Variable Universal Life policies (CSVUL)
  2. Series 2 Policies - CorpExec VUL II policies (CESVUL2)
  3. Series 3 Policies - CorpExec VUL III policies (CESVUL3)
  4. Series 4 Policies - CorpExec VUL IV policies (CESVUL4)

7. **MFA Separate Accounts I and II and VLI Separate Account** the two types of policies funded by this Separate Account are:

1. **MFA Separate Account I and II** were established on May 27, 1983 to receive and invest net premium payments under Tax Qualified Multi-Funded Retirement Annuity Policies and Non-Qualified Multi-Funded Retirement Annuity Policies. Sales of all such policies were discontinued effective December 19, 1994.
2. **VLI Separate Account** was established on May 27, 1983 to receive and invest premium payments under variable life insurance policies. Effective July 1, 1988 the sale of such policies were discontinued.

Note 3

**Aggregate Reserve for Life Policies and Contracts** **\$28,535,848,113**

The Department's consulting actuary, INS Consultants, Inc. (INS) prepared the 2004 Certificate of Reserve Valuation for the Company as well as performing the reserve analysis for this examination.

As part of the annual certificate of reserve valuation procedure, INS reviewed the December 31, 2004 General Account Exhibits 5 and 7 reserves and the Separate Accounts Exhibit 3 reserves.

The reserve breakdown in Exhibit 5, of the Company's 2004 Annual Statement by type of benefit, is presented in the following table:

<b><u>Reserve Segment</u></b>	<b><u>Total (Gross)</u></b>	<b><u>Reinsurance Ceded</u></b>	<b><u>Total (Net)</u></b>
Life insurance	\$ 14,250,490,849	\$ 4,669,204,563	\$ 9,581,286,286
Annuities	18,457,786,847	0	18,457,786,847
Supplementary contracts	39,616,964	0	39,616,964
Accidental death benefits	102,836	47,141	55,695
Disability - active lives	1,175,947	718,014	457,933
Disability - disabled lives	34,373,933	30,230,387	4,143,546
Miscellaneous reserves	<u>616,996,826</u>	<u>164,495,984</u>	<u>452,500,842</u>
Totals	<b><u>\$ 33,400,544,202</u></b>	<b><u>\$ 4,864,696,089</u></b>	<b><u>\$ 28,535,848,113</u></b>

The aggregate reserve is held for fixed and variable universal life, variable life, fixed and variable deferred annuities, immediate annuities and benefits ancillary to these policies. During the certificate of reserve valuation process, NYLIAC's valuation files and work papers supporting the above amounts were reviewed and found to be in order. INS' reconciliation work from that procedure has been relied upon for the current examination. Sample contracts were selected from the valuation systems for reserve testing. Substantive sample sizes were determined based on probability proportional to size (PPS) sampling methodology. In some instances where reserves are systematically calculated and largely dependent on contract account values, judgmental samples were selected from the PPS sample and no exceptions were noted which would impact reserve calculations. The detail valuation files contained the split of both the account value and the surrender value between the General Account (GA) and the Separate Accounts (SA), but did not always split the reserve into the GA and the SA components. Thus, the sample sizes reflect the combined liability of the GA and the SA. The allocation of the reserve between the GA and the SA appeared reasonable when compared to the account value and surrender value splits. Since this reserve allocation did not affect surplus, no further investigation of the reserve allocation was made.

The primary risks associated with the life segment are adverse mortality, inadequate investment yields, asset default, interest rate volatility and mismatching of asset and liability cash flows. The primary risk associated with annuities involves interest rate volatility and the mismatching of asset and liability cash flows. These risks were further reviewed by evaluating the 2004 Actuarial Opinion Memorandum (AOM). Based on that review, INS accepted NYLIAC's conclusion that additional reserves were not required as of December 31, 2004.

This liability is for NYLIAC's Exhibit 5 life insurance business and is allocated by generic product type as follows:

Variable Universal Life	\$ 532,723,010
BOLI	6,603,965,144
Variable Life	15,837,654
AA Conversion	84,487,870
Other	<u>2,684,445</u>
Total (gross)	\$ 14,250,490,849
Reinsurance ceded	<u>4,669,204,563</u>
Total (net)	\$ 9,581,286,286

Fixed universal life (UL) and variable universal life (VUL) products consist of several flexible and single premium plans. Slightly over one-half of the total reserves (GA plus SA) for life business are held for contracts, which are marketed to employer-sponsored benefit plans and referred to as Business Owned Life Insurance (BOLI) or Corporate Owned Life Insurance (COLI). The next largest segment of universal life products are marketed as 'Target Life', which are based on a target premium, that is similar to a traditional whole life premium. Many other variations of universal life including single premium and survivorship plans are currently sold or have been sold in the past.

The reserves for UL products are held entirely in the GA. VUL products permit the policy owner to allocate all or part of the account value to funds with investment and/or interest guarantees. Reserves for the portion involving interest guarantees (including policy loans) are held in the GA, whereas reserves for the portion not involving any interest guarantees are held in the SA. For VUL contracts, the above represents the GA portion of the reserve. NYLIAC calculates the total reserve using the Commissioners Reserve Valuation Method (CRVM) for UL and VUL contracts and apportions the total reserve for VUL contracts into the GA and SA components.

Variable life insurance (VLI) products provide an initial face amount and variable return amounts, which reflect underlying investment experience. GA reserves for VLI are held only in connection with policy loans. Reserves for all non-loaned VLI funds are held in the SA. NYLIAC calculates the total reserve using the CRVM for VLI contracts.

The Attained Age (AA) conversion item is an additional reserve held to account for anti-selection on policies issued as a result of conversion from term policies issued by other companies affiliated with NYLIAC. An initial reserve is determined by NYLIAC based on age at conversion, sex and underwriting class of the insured. This initial reserve is amortized over the first 25 years of the contract. NYLIAC work papers supporting this reserve and the initial reserve factors were reviewed and found to be in order.

The other reserve item consists of reserves for a myriad of miscellaneous items including level term insurance benefits on the primary insured and the insured's spouse and children, substandard risks and other riders. Based on materiality, no further examination work was considered necessary for these items and the reserves were accepted as stated.

<u>Annuities</u>	<u>\$ 18,457,786,847</u>
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The above liability consists of \$18,278,342,579 for deferred annuities and \$179,444,268 for structured settlement and immediate annuities.

<u>Deferred Annuities</u>	<u>\$18,278,342,579</u>
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The reserves for deferred annuities can be broken down by plan type as follows:

Fixed Deferred Annuity	\$ 13,293,776,680
Variable Deferred Annuity	<u>4,984,565,899</u>
Total (net and gross)	\$ 18,278,342,579

Fixed deferred annuities consist almost entirely of single premium deferred annuities with a few flexible premium components. NYLIAC calculates the total reserve and then apportions this into the GA and SA components. NYLIAC calculates reserves using the Commissioners Annuity Reserve Valuation Method (CARVM) for each contract. In addition, NYLIAC uses the continuous variation of CARVM for calculating reserves for deferred annuity contracts.

<u>Structured Settlement Annuities</u>	<u>\$ 179,444,268</u>
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The reserves for structured settlements and immediate annuities are as follows:

Structured Settlements	\$ 152,986,404
Single Premium Immediate Annuities	<u>26,457,864</u>
Total (net and gross)	\$ 179,444,268

Structured Settlements consist of contracts issued from 1988 through 1990 and provide for the payment of specified and sometimes irregular amounts at specified intervals. The specified amounts, specified intervals and guaranteed periods are determined at issue and not subject to change thereafter, approximately 7% of such contracts are valued using substandard extra mortality and are subject to the requirements of NAIC Actuarial Guideline (AG) 9A. One requirement of AG 9A is that insurers are to maintain records of actual to expected mortality and monitor the appropriateness of substandard mortality. NYLIAC provided INS with actual to expected mortality results for substandard contracts. According to the most recent study, actual mortality experience is significantly greater than expected which demonstrates that valuation assumptions are conservative.

Supplementary Contracts With Life Contingencies \$ 39,616,964

This liability for Supplementary Contracts with Life Contingencies in the amount of \$39,616,964 represents contracts in payout status, which involve life contingencies. NYLIAC workpapers supporting the above amounts were reviewed and found to be in order.

Accidental Death Benefits \$ 55,695  
Disability- Active Lives \$457,933

The reserves for Accidental Death Benefits of \$55,695 and Disability-Active Lives in the amount of \$457,933 support supplemental benefits provided under individual life insurance contracts. NYLIAC workpapers supporting the above amounts were reviewed and found to be in order.

Disability- Disability Lives \$4,143,546

The reserve for Disability – Disabled Lives is mostly for the waiver of cost of insurance (COI) benefits provided under UL and VUL contracts. The Disability – Disabled Lives reserve was reviewed for consistency with the corresponding reserves for year ends 2001 through 2004 inclusive and the trends appear reasonable and consistent. In addition, seriatim valuation listings for contracts supporting the waiver of COI reserve were reviewed and appear reasonable.

Miscellaneous Reserves \$ 452,500,842

The liability for miscellaneous reserves was broken down as follows:

Surrender values in excess of reserve	\$ 462,956,819
Deficiency reserves	108,804,640
Guaranteed minimum death benefits (life contracts)	20,876,686
Guaranteed minimum death benefits (annuity contracts)	20,669,757
Guaranteed minimum living benefits (annuity contracts)	2,860,436
Asset Preserver LTC claim reserves	<u>828,488</u>
Total (gross)	\$ 616,996,826
Reinsurance ceded	<u>164,495,984</u>
Total (net)	<u>\$ 452,500,842</u>

In the calculation of the CRVM life insurance reserve, if the surrender value is greater than the CRVM reserve, NYLIAC holds the excess of the surrender value over the CRVM reserve as an additional miscellaneous reserve. The calculation of the surrender value was reviewed at the same time as the basic CRVM reserve. Based on this review, the excess of the surrender value over the CRVM reserve appears acceptable.

INS verified deficiency reserves as part of the basic policy reserve calculation. No discrepancies were noted. NYLIAC offers several UL plans with secondary guarantees where coverage is guaranteed to remain in force as long as a stipulated premium is paid. NYLIAC's reserve methodology incorporates the requirements of Valuation of Life Insurance Policies Model Regulation (DE 1212) and AG 38 for contracts with secondary guarantees. Reserves for these contracts appear to be in compliance with minimum valuation standards.

AG 37 requires that provision be made for guaranteed minimum death benefits (GMDB) for variable life contracts. AG 34 requires that provision be made for GMDB for variable deferred annuity contracts. AG 39 requires that provision be made for guaranteed minimum living benefits (GMLB) for variable deferred annuity contracts. INS verified that reserves comply with minimum reserve requirements for each of the actuarial guidelines described above. A trend analysis of the GMDB and GMLB reserves from December 31, 2001 through December 31, 2004 produced reasonable results. Based on the materiality, no further review of the long-term care claim reserve was considered necessary and this reserve was also accepted as stated.

INS reviewed the asset adequacy / cash flow testing (CFT) analysis completed as part of the AOM Regulation for 2004. INS has accepted NYLIAC's conclusion that additional actuarial reserves were not required as of December 31, 2004.



However, in order to improve asset adequacy/CFT procedures, INS recommend that future AOMs discuss:

- **the identification and appropriateness of the assets supporting liabilities which are tested by methods other than CFT; and**
- **the identification and appropriateness of the assets supporting liabilities excluded from asset adequacy analysis.**

Note 4

Contract Claims

\$59,983,876

NYLIAC did not establish an IBNR liability for death claims pursuant to deferred annuity contracts. The death benefit for a deferred annuity contract is equal to its account value. NYLIAC supplied a listing of all 2005 annuity death claim activity. INS isolated those claims where the date of death occurred prior to 2005 but was not reported until 2005. Based on this information INS determined that the IBNR was understated by approximately \$950,000. NYLIAC agrees that an IBNR should be set up for these benefits, that they would establish an IBNR by year-end 2006 and estimates that it will be in the \$1 million to \$3 million range. No financial change was made for purposes of this examination. Therefore,

**It is recommended that IBNR amounts be determined based on analytical analyses of actual claim activity.**

**COMPLIANCE WITH PRIOR REPORT OF EXAMINATION**

The prior examination report contained no recommendations.

## **RECOMMENDATIONS**

1. It is recommended that the Company review its programs and systems that are related to contract loan values that affect the accuracy of reporting amounts in certain Line accounts of the Annual Statement. (Pg 27)
2. It is recommend that future AOMs in order to improve asset adequacy/CFT procedures, discuss: (Pg 37)
  - the identification and appropriateness of the assets supporting liabilities which are tested by methods other than CFT; and
  - the identification and appropriateness of the assets supporting liabilities excluded from asset adequacy analysis.
3. It is recommended that IBNR amounts be determined based on analytical analysis of actual claim activity. (Pg 37)

## **COMMENTS**

- 1) The Company received capital contributions of \$500 million in 2003 and \$130 million in 2002 from NYL.

## **CONCLUSION**

The following schedule shows the results of this examination and the results of the prior examination with changes between the examination periods:

<b><u>Description</u></b>	<b><u>December 31, 2001</u></b>	<b><u>December 31, 2004</u></b>	<b><u>Increase</u></b>
Assets	\$34,673,992,945	\$56,282,521,849	\$21,608,528,904
Liabilities	33,339,006,347	40,853,241,467	7,514,235,120
Capital and Surplus	1,334,986,598	2,008,845,401	673,858,803

The assistance of Delaware's consulting actuarial firm, INS Consultants, Inc. is acknowledged.

Respectfully submitted,

A handwritten signature in black ink that reads "Joseph Murano Jr." The signature is written in a cursive style with a horizontal line extending from the end of the name.

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Joseph Murano, Jr., CFE  
Examiner-In-Charge  
State of Delaware